

**Remarks**

This Amendment is in response to the Office Action dated **July 29, 2008**. Claims 9, 10, 13-22, 25, 26 and 29-30 are pending in this application. The Office Action rejected claims 17, 20, 29 and 30 under 35 USC § 102 over Pinchasik (US 5449373); rejected claims 17, 20, 29 and 30 under 35 USC § 102 over Palmaz (US 5102417); rejected claims 16, 25, 26 and 28 under 35 USC § 103 over Pinchasik in view of Kleshinski; rejected claims 16, 25, 26 and 28 under 35 USC § 103 over Palmaz in view of Kleshinski; rejected claims 9, 10, 13, 21, 22 and 24 under 35 USC § 103 over Israel (US 5733303) in view of Pinchasik and Kleshinski; rejected claims 14 and 15 under 35 USC § 103 over Israel in view of Pinchasik and Kleshinski and further in view of Lau (US 5514154); rejected claims 18 and 19 under 35 USC § 103 over Palmaz or Pinchasik and further in view of Lau; and objected to claims 17-20, 29 and 30 due to an informality in claim 17.

By this Amendment, claims 9 and 17 are amended. Applicants reserve the right to prosecute any cancelled subject matter in a subsequent patent application claiming priority to the immediate application. Reconsideration in view of the above amendments and the following remarks is requested.

**Claim Objections**

The Office Action objected to claims 17-20, 29 and 30 due to an informality in claim 17. Claim 17 is amended in accordance with the Office Action's suggestion, changing "the distal portion" to "the other portion." Withdrawal of the objection is requested.

**Claim Rejections (applying Pinchasik and Palmaz)**

The Office Action rejected claims 17, 20, 29 and 30 under 35 USC § 102 over Pinchasik; rejected claims 17, 20, 29 and 30 under 35 USC § 102 over Palmaz; rejected claims 16, 25, 26 and 28 under 35 USC § 103 over Pinchasik in view of Kleshinski; rejected claims 16, 25, 26 and 28 under 35 USC § 103 over Palmaz in view of Kleshinski; and rejected claims 18 and 19 under 35 USC § 103 over Palmaz or Pinchasik and further in view of Lau. These rejections are traversed.

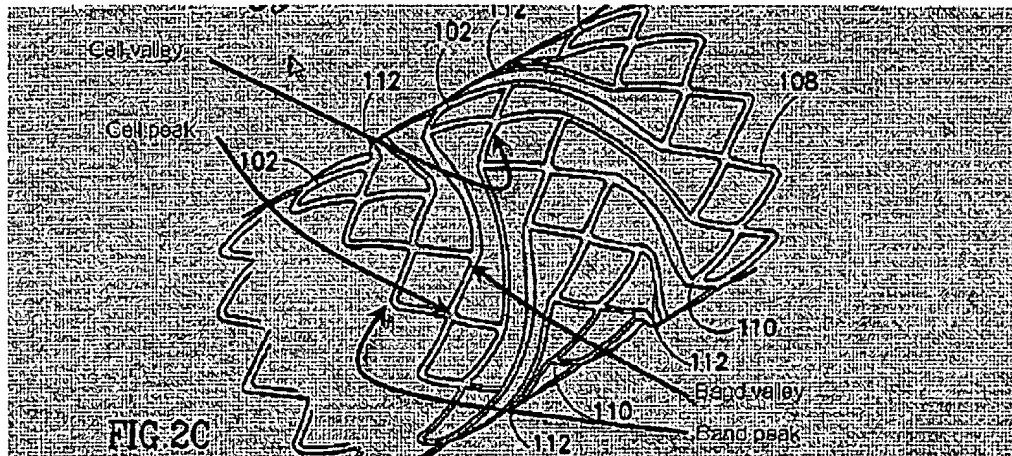
Independent claim 16 recites a "stent comprising an expandable framework defining a tubular body having a plurality of cells... wherein each cell of the stent is bounded at a

first end by a portion of one annular element, at a second end by a portion of another annular element, and by two of the connecting members which extend between the one annular element and the other annular element.”

Independent claim 17 recites a “stent comprising an expandable framework defining a tubular body having a plurality of cells...each cell of the stent defined by two of the connecting members and portions of two different serpentine bands.”

The “expandable framework” of the Pinchasik and Palmaz stents define cells that do not meet the “cell” limitations recited in claims 16 and 17. Applicants previously argued that stent structure taught by Pinchasik or Palmaz does not meet these limitations due to the “diamond cells” formed within the Pinchasik or Palmaz stent bands. See e.g. Amendment filed April 7, 2008 at pages 7-9.

In response to Applicants’ arguments, the rejection included the picture recreated below to clarify the characterization of the applied references. See Office Action at pages 2-3. This characterization is relied upon for all of the claim rejections discussed in this section.

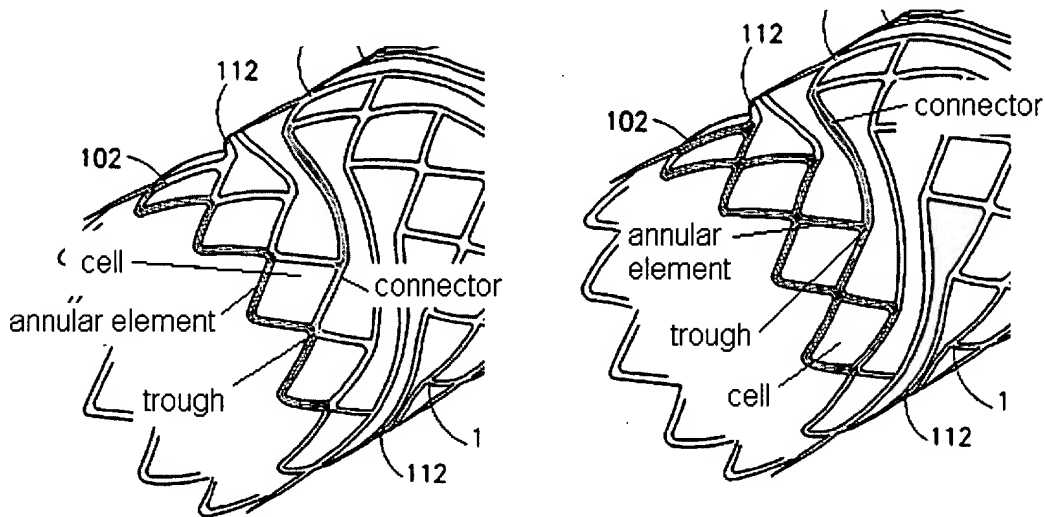


As shown in the above illustration, the rejection characterizes separate “cell peak/valleys” and “band peak/valleys.” Even when the illustration is considered, the rejection does not clearly convey how the illustrated stent meets each limitation of claims 16 or 17. Further, the characterization asserted is not in accordance with the limitations recited in the rejected claims.

Although independent claim 16 recites “peaks” and “troughs,” these limitations are only recited as a part of the recited “annular elements.” Thus, the rejection must define the peaks and troughs as portions of the annular elements, as recited in claim 16. Claim 16 further requires

that the “connecting members” extend “from peak to trough” – e.g. from a previously recited peak of an annular element to a previously recited trough of an annular element.

Applicants have provided two marked versions of Pinchasik Figure 2C below to illustrate how different characterizations of Pinchasik/Palmaz will not meet the limitations of claim 16.



In the left Figure above, one-half of the Pinchasik segment 102 is characterized as a recited “annular element” (see dark shading). A remaining portion of the segment 102 and the Pinchasik link 112 are collectively characterized as a recited “connecting member” (see light shading). In this characterization, the indicated “cell” in the Figure is not “bounded at a first end by a portion of one annular element, at a second end by a portion of another annular element, and by two of the connecting members which extend between the one annular element and the other annular element,” as required by the language of claim 16.

In the right Figure above, an entire Pinchasik segment 102 is characterized as a recited “annular element” (see dark shading). A Pinchasik link 112 is characterized as a recited “connecting member” (see light shading). In this characterization, the indicated “cell” in the Figure is not “bounded at a first end by a portion of one annular element, at a second end by a portion of another annular element, and by two of the connecting members which extend between the one annular element and the other annular element,” as required by the language of claim 16.

Therefore, the Pinchasik stent does not meet the limitations of claim 16 as asserted in the rejection, and claim 16 is patentable over Pinchasik under 35 USC § 102. Further, even if the modifications to Pinchasik proposed in the rejections under 35 USC § 103 were to be made, the resulting structure would not meet the limitations recited in claim 16. Applicants assert similar arguments with respect to the rejections over Palmaz, as the reasoning is the same. Accordingly, Applicants request that the rejections directed to claim 16, and the rejections directed to claims 25, 26 and 28, dependent therefrom, be withdrawn.

The analysis for claim 17 is similar to the analysis for claim 16. Claim 17 recites “peaks” and “valleys” as a portion of the recited “serpentine bands.” Thus, the rejection must define the peaks and valleys as portions of the serpentine bands. Claim 17 further recites “each connecting member connected between a peak and a valley” – e.g. connected between a previously recited peak of a serpentine band and a previously recited valley of a serpentine band. In accordance with the marked versions of Pinchasik Figure 2C provided above, Applicants assert that the indicated “cell” in these Figures is not “defined by two of the connecting members and portions of two different serpentine bands,” as recited in claim 17.

Therefore, the Pinchasik stent does not meet the limitations of claim 17, and claim 17 is patentable over Pinchasik under 35 USC § 102. Further, even if the modifications to Pinchasik proposed in the rejections under 35 USC § 103 were to be made, the resulting structure would not meet the limitations recited in claim 17. Applicants assert similar arguments with respect to the rejections over Palmaz, as the reasoning is the same. Accordingly, Applicants request that the rejections directed to claim 17, and the rejections directed to claims 18-20, 29 and 30, dependent therefrom, be withdrawn.

#### **Claim Rejections (applying Israel)**

The Office Action rejected claims 9, 10, 13, 21, 22 and 24 under 35 USC § 103 over Israel in view of Pinchasik and Kleshinski; rejected claims 14 and 15 under 35 USC § 103 over Israel in view of Pinchasik and Kleshinski and further in view of Lau.

By this Amendment, claim 9 is amended and recites, “the valley portions of the first annular element having the same shape as the peak portions of the first annular element.” This Amendment is supported at least by Figure 4 of the Application.

The rejection proposes to modify the Israel stent by modifying an end segment to have "fingers" as taught by Kleshinski. Such a modification would change one end of the end segment, but not the other. The resulting end segment would have "valley portions" of a different shape than the "peak portions" due to the fingers, and the device proposed in the rejection would not meet the limitations of independent claim 9.

The rejection does not propose to modify Israel in a way that would result in an end segment having less compression resistance than another annular segment, wherein the valley portions and peak portions of the end segment have the same shape.

Accordingly, Applicants assert that claim 9 is patentable over the applied references under 35 USC § 103. Applicants request withdrawal of the rejection of claim 9, and of claims 10, 13-15, 21, 22 and 24, dependent therefrom.

#### **Conclusion**

Based on at least the foregoing amendments and remarks, Applicants submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 9, 10, 13-22, 25, 26 and 29-30 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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Date: November 18, 2008

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